



June 18, 2002

Chief Don Hatcher
Leander Police Department
P.O. Box 319
Leander, Texas 78646-0319

OR2002-3306

Dear Chief Hatcher:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 164477.

The Leander Police Department (the “department”) received two requests for information relating to a specified address. The first request seeks all police reports and information concerning the specified address from May of 1999 through December of 2000, excluding information pertaining to a specified incident. The second request seeks the report of a specific incident, occurring between August and October of 2000. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy and sections 58.007 and 261.201 of the Family Code, as well as section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that you have submitted two sets of documents for review by this office. The first set of documents is responsive to the request for all police reports from May of 1999 to December of 2000. The second set of documents pertain to the incident specified in the second request. We begin by addressing your claim under section 552.108 with respect to the first set of documents.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime; (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See Gov’t Code*

§§ 552.108(a)(1), (b)(1), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested documents “contain investigative information and police investigative methods, and if released could hinder this pending investigation or future investigations.” Upon review, we note that the submitted offense reports concern several different incidents that are apparently unrelated to each other. You have not explained, nor do the documents reflect, how the submitted offense reports concern pending criminal investigations. Furthermore, you have not explained, nor are we able to determine from the information itself, whether these offense reports are related to the investigation of the specific incident at issue in the second request. Thus, we determine that the department has not reasonably explained how release of the requested reports would interfere with law enforcement. We therefore find that the requested offense reports may not be withheld under section 552.108 of the Government Code.

One of the requested reports contains a Texas license plate number. Section 552.130 of the Government Code provides for the confidentiality of Texas motor vehicle license and registration information. The department must withhold the information we have marked pursuant to section 552.130.

We next address your claim under section 552.101 for the set of documents responsive to the request for information pertaining to a specified incident. The requested documents contain information that is subject to section 261.201 of the Family Code. Section 261.201(a) provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Upon review, we determine that all the remaining documents were used or developed in an investigation of child abuse and are thus within the scope of section 261.201 of the Family Code. You have not indicated that the department has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, the remaining submitted information is confidential under section 261.201 of the Family Code and must be withheld in its entirety under section 552.101 of the

Government Code.¹ See Open Records Decision No. 440 at 2 (1986) (predecessor statute). As we address all the remaining information under section 261.201, we do not reach your claims under common-law privacy or section 58.007 of the Family Code with respect to this information. See also Gov't Code § 552.301(e)(2) (governmental body requesting an attorney general decision must label copy of the specific information requested to indicate which exceptions apply to which parts of the copy).

In summary, with respect to the first request, motor vehicle information must be withheld under section 552.130 of the Government Code. The department must release the remainder of the requested offense reports. With respect to information responsive to the second request, the remaining information is confidential under section 261.201 of the Family Code and must be withheld in its entirety pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public

¹We note that if the investigation has been referred to the Department of Protective and Regulatory Services (the "DPRS"), a parent who is a requestor may be entitled to access to the DPRS's records. Section 261.201(g) of the Family Code provides that DPRS, upon request and subject to its own rules:

shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if [DPRS] has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/sdk

Ref: ID# 164477

Enc: Submitted documents

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